

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

WILLIAM ZUKOWSKI,

Petitioner,

v.

TONY PARKER, Warden,

Respondent.

Case No. 3:08-cv-759

Judge Haynes

MOTION TO DISMISS

In response to the petition for writ of habeas corpus filed by the petitioner and pursuant to the Order of this Court filed on 24 September 2008 (Doc. 4), the respondent, by and through the Office of the Attorney General, moves this Court to dismiss the petitioner's claims of ineffective assistance of counsel due to the petitioner's failure to show that the adjudication of any of those claims

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

28 U.S.C. § 2254(d).

As to the petitioner's remaining claims, they should be dismissed due to the petitioner's failure to properly raise them before this Court and the lapse of the time period for bringing those claims in state court, resulting in procedural default.

ORDER
Given the extension of discovery this motion is DENIED without prejudice to renew upon completion of discovery. Respondent can renew this motion by incorporating by reference his prior motion papers.
Will [Signature]
10/27/09
4670